

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 MICHAEL D. MILAM,

10 Plaintiff,

11 v.

12 JUSTIN CHILDERS, et al.

13 Defendants.
14

Case No. C09-1528-MJP-JPD

MINUTE ORDER RE VOLUNTARY
DISMISSAL

15 The following minute order is made at the direction of the Court, the Honorable
16 James P. Donohue, United States Magistrate Judge:

17 Federal Rule of Civil Procedure 41(a) provides that plaintiff may dismiss an action
18 without a court order by filing a notice of dismissal before the opposing party serves an answer
19 or a motion for summary judgment. Here, plaintiff has yet to resolve a deficiency in his
20 application to proceed *in forma pauperis* such that his proposed civil rights complaint has not
21 yet been filed or served. (Dkt. 5.) Plaintiff's request to dismiss this case voluntarily (Dkt. 8) is
22 therefore GRANTED. Plaintiff also asked that the Court sanction the prison mail room for
23 having opened his legal mail. The Court is without authority to provide such relief because
24 plaintiff has unequivocally and voluntarily dismissed this matter, the allegations refer to a
25 defendant and actions unrelated to the proposed action, and there is no indication that plaintiff
26

1 sought to resolve his concerns through the prison's grievance system prior to making his
2 request. *See generally* 42 U.S.C. § 1997e(a) ("No action shall be brought with respect to
3 prison conditions under section 1983 of this title, or any other Federal law, by a prisoner
4 confined in any jail, prison, or other correctional facility until such administrative remedies as
5 are available are exhausted.").

6 DATED this 10th day of December, 2009.

7
8 Bruce Rifkin
Clerk of the Court

9
10 /s/ Mary Duett
Deputy Clerk